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13 Gibby Novelties, LLC

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PAUL MONTWILLO, an individual) CASE NO. C 07 3947 SI
vs.)
Plaintiff,) NOTICE OF WITHDRAWAL OF MOTION
vs.) FOR STAY OF PROCEEDINGS
WILLIAM TULL; DANIEL GIBBY;) Hearing Date: November 16, 2007
GIBBY NOVELTIES, LLC dba) Hearing Time: 2:00 p.m.
ARSENIC & APPLE PIE, a California) Ctrm: 10
Limited Liability Corporation and DOES) Complaint filed: August 1, 2007
1 through 20, inclusive,)
Defendants.)

Defendants WILLIAM TULL; DANIEL GIBBY; GIBBY NOVELTIES, LLC hereby withdraw their pending Notice and Motion for a Stay of Proceedings in this matter. This withdrawal of motion is based on the dismissal, by Plaintiff, of the related State Court Proceeding in this matter, and the decision by the Arbitrator that despite the prior stipulation to allow this matter to be resolved by binding arbitration, Plaintiff was entitled to unilaterally withdraw the matter from that binding arbitration, resulting in the dismissal of that proceeding as

1 well. This notice of withdrawal is made without prejudice of the right of Defendants to seek a
2 subsequent such motion in the event Plaintiff, whose dismissal of the State Court action was
3 made without prejudice, reinstates that state court action at a later date.

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5 November 8, 2007

6 Respectfully submitted,
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10 MARC H. GREENBERG, Esq.
11 Attorneys for Defendants William Tull,
12 Daniel Gibby and Gibby Novelties, LLC
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